



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,099	03/24/2004	Ulfar Erlingsson	MSFT-5041/307240.01	4162
41505	7590	08/28/2007	EXAMINER	
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)			KIM, PAUL	
CIRA CENTRE, 12TH FLOOR			ART UNIT	PAPER NUMBER
2929 ARCH STREET			2161	
PHILADELPHIA, PA 19104-2891			MAIL DATE	DELIVERY MODE
			08/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

5

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/808,099	ERLINGSSON, ULFAR	
	Examiner	Art Unit	
	Paul Kim	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 16 July 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-4, 8, 15-19, 23 and 30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4, 15-19 and 30 is/are rejected.
- 7) Claim(s) 8 and 23 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. This Office action is responsive to the following communication: Amendment filed on 16 July 2007.
2. Claims 1-4, 8, 15-19, 23, and 30 are pending and present for examination. Claims 1 and 16 are in independent form.

### *Response to Amendment*

3. Claims 1, 8, 16, and 23 have been amended.
4. Claims 5-7 and 20-22 have been cancelled.
5. Claims 9-14, 24-29, and 31-33 have been withdrawn.
6. No claims have been added.

### *Claim Objections*

7. **Claims 1 and 16** are objected to because of the following informalities: Claims 1 and 16 recite, in lines 17 and 19 respectively, "a quite request." It is believed that said recitation was intended to read as "a quit request." Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. **Claims 1-4, 15-19, and 30** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward "a method of recovering an application" and are non-statutory because they fail to produce a "useful, concrete and tangible result."

See State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. "The claimed invention as a

Art Unit: 2161

whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result" (emphasis added). It is noted that the claims recite a method step wherein a third determination is made. However, the claims fail to recite a method wherein a result is produced when the "third determination" is not true. Therefore, wherein the third determination is found not to be true, the claims as recited would fail to produce a "useful, concrete and tangible result."

Furthermore, while the inclusion of claims 8 and 23 would resolve the aforementioned issue, it is noted that said claims fail to recite a method step wherein a "useful, concrete and tangible result" is produced when the fourth determination is not true.

***Allowable Subject Matter***

10. **Claims 8 and 23** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

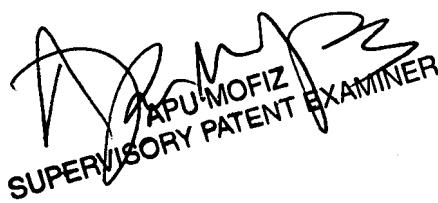
Art Unit: 2161

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Kim  
Patent Examiner, Art Unit 2161  
TECH Center 2100



A handwritten signature of Paul Kim, which includes the text "APU-MOFIZ" and "SUPERVISORY PATENT EXAMINER" written vertically along the signature line.